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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,531	11/21/2001	Dennis L. Montgomery	042503/0273332 (ETV-012-U)	3106
909	7590	12/23/2003	EXAMINER	
PILLSBURY WINTHROP, LLP P.O. BOX 10500 MCLEAN, VA 22102			ONEILL, MICHAEL W	
			ART UNIT	PAPER NUMBER
			3713	6
DATE MAILED: 12/23/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.		Applicant(s)	
	09/991,531		MONTGOMERY, DENNIS L.	
	Examiner		Art Unit	
	Michael O'Neill		3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 4-9 are rejected under 35 U.S.C. 101 because then Assistant Secretary and Commissioner of Patents and Trademarks, Donald J. Quigg, issued a notice in the Official Gazette stating, "A claim directed to or including within its scope a human being will not be considered to be patentable subject matter under 35 U.S.C. 101. The grant of a limited, but exclusive property right in a human being is prohibited by the Constitution." 1077 OG 24 (1987), reprinted in 1146 TMOG 24 (1993).

Claim Rejections - 35 USC § 112

The following is a quotation of the second and fourth paragraphs of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
... a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.

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Claims 3-11, 14-18, 22 and 23 are rejected under 35 U.S.C. 112, second and fourth paragraphs, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention and failing to further limit the independent claim they depend therefrom. None of the above claim neither add an additional step to the claimed method nor further define a previously recited step in the claimed method.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Fishbine et al, USPN 5,781,647. Fishbine et al. discloses the structure necessary to perform the claimed process. The claimed process utilizes a video camera, digital image processing means of some sort, a database and software to do comparisons. Fishbine et al. provides for the automatic determination of the number of chips within a stack of gambling

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chips and the value of each chip within the stack through the use of a classification scheme stored in a computer wherein the classification scheme may include geometry, color and size of preselected set of chips. The classification scheme data, i.e. the mask, is used as a reference for a real time captured image of a stack of gambling chips. The system captures an image of the stack of gambling chips, via the video cameras, and process the image by comparing the classification scheme data representative of a complete set of gambling chips, i.e. the mask and what the camera captures as the image are compared. Although, the Applicant's words to describe the invention are different from what Fishbine et al. uses to describe their invention; the two inventions are the same and as a result Fishbine et al. anticipates the instant invention which is described in unconventional terminology utilized by the Applicant to disclose and define the invention within the instant application.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael O'Neill whose telephone number is 703-308-3484. The examiner

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can normally be reached on Monday through Friday 8:30 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa J. Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5648.

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MICHAEL O'NEILL
PRIMARY EXAMINER